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PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rybicki
Serial No: 09/613,344
Filing Date: 7/10/2000
Title: METHOD AND APPARTUS FOR PROVIDING MULTIPLE CHANNEL AUDIO IN A COMPUTING SYSTEM

Examiner: Lee, Ping
Art Group: 2644
Docket No: SIG000030

Date: 6/29/04

RECEIVED

JUL 08 2004

Technology Center 2600

Honorable Commissioner of
Patents and Trademarks,
Alexandria, Virginia 22313

In response to an Office Action mailed on 6/2/04 regarding the above-captioned patent application, the applicant respectfully submits the following.

1. In the above referenced Office Action, the Examiner stated that claims 1 - 24 are directed to different embodiments as illustrated in figures 1, 2, 5, and 6; Species 1 as shown in Figures 1 and 5; and Species 2 as shown in Figures 2 and 6. Applicant is required under 35 USC § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable. Currently, no claim is generic. The applicant disagrees.
2. The applicant contends that he cannot make an election to a single disclosed species for prosecution based on the species grouping offered by the Examiner and further contends that he is not required to under 35 USC § 121. In particular, 35 USC § 121 contains no requirements to make an election for a single species for prosecution. 35 USC § 121 does, however, state that "if two or more independent and distinct inventions are claimed in one application, the

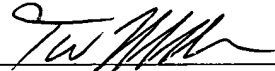
Director may require the application to be restricted to one of the inventions." Further, 37 CFR § 1.141(a) states, in part, that "more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims..." [emphasis added] Still further, MPEP § 806.04(e) states, in part, "Claims may be restricted to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim), or a claim may include two or more of the disclosed embodiments with the breadth and scope of definition (and thus be designated a generic or genus claim)." [emphasis added] Even further, MPEP § 808.01(a) states, in part, that "Election of species should be required prior to a search on the merits (A) in all applications containing claims to a plurality of species with no generic claims, and (B) in all applications containing both species claims and generic or Markush claims."

Based on the above cited law and rules, the applicant is not required to make a species election as requested by the Examiner and such a request should be withdrawn.

3. In an effort to avoid this response being deemed non-responsive, the applicant elects the species corresponding to claims 1, 5, 9, 13, 17, and 21.

RESPECTFULLY SUBMITTED,

By:


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CERTIFICATE OF MAILING

37 C.F.R 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Alexandria, Virginia 22313, on the date below:

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6/29/04

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